



[Billing Code 3190-W2-P]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Free Trade Agreements; Invitation for Applications for Inclusion on Dispute Settlement Lists for U.S. Free Trade Agreements (FTAs) with Australia, Colombia, Korea, Morocco, and Singapore

AGENCY: Office of the United States Trade Representative (“USTR”).

ACTION: Invitation for Applications.

SUMMARY: A number of trade agreements to which the United States is a Party call for the Parties to establish indicative rosters or reserve or contingent lists of persons (“lists”) available to serve on dispute settlement panels to hear disputes under those agreements. These agreements include the United States – Australia Free Trade Agreement (“USAFTA”), the United States – Colombia Trade Promotion Agreement (“USCTPA”), the United States – Korea Free Trade Agreement (“KORUS”), the United States – Morocco Free Trade Agreement (“USMFTA”), and the United States –Singapore Free Trade Agreement (“USSFTA”). USTR is inviting interested persons to apply to be on one or more of these lists under the various agreements, as indicated below.

DATES: Applications should be received no later than **[Insert date that is 45 days from publication of notice]** to be assured of consideration.

ADDRESSES: Applications should be submitted electronically to www.regulations.gov, docket number USTR-2012-0009. If you are unable to submit an application using www.regulations.gov, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

FOR FURTHER INFORMATION CONTACT: For information regarding the form of the application, contact Sandy McKinzy, Legal Technician, USTR Office of Monitoring and Enforcement, at (202) 395-3582. For other inquiries, contact Catherine Field, Chief Counsel, at (202) 395-3432 (for the USAFTA), María Pagán, Associate General Counsel, at (202) 395-3150 (for the USCTPA), Cletus Willems, Assistant General Counsel, at (202) 395-3150 (for the KORUS), Courtney Smothers, Associate General Counsel, at (202) 395-3581 (for the USMFTA), and Willis Martyn, Associate General Counsel, at (202) 395-3582 (for the USSFTA).

SUPPLEMENTARY INFORMATION:

USTR is seeking applications from interested persons to serve on any of the lists under any of the cited agreements. The details for how to apply are provided below as is a short description of the lists for each agreement. A person is permitted to apply for a single list or any combination of lists. In response to this notice, USTR will accept applications from U.S. citizens and nationals of other countries.

Dispute Settlement Mechanism of the USAFTA

The USAFTA is a bilateral agreement in force between the United States and Australia. Chapter 21 of the USAFTA sets out detailed procedures for the resolution of disputes arising under the Agreement. Dispute settlement involves three stages: (1) consultations between the Parties to try to arrive at a mutually satisfactory resolution of the matter; (2) efforts by the Joint Committee, comprised of officials from each Party and chaired by officials from USTR and Australia's Ministry of Foreign Affairs and Trade, to resolve the matter; and, (3) resort to a dispute settlement panel to make a determination regarding the matter at issue between the Parties. The panel is composed of three individuals chosen by the Parties or from the contingent list.

The USAFTA requires the Parties to establish a contingent list of ten individuals who are willing and able to serve as panelists. Individuals on the contingent list are appointed by agreement of the Parties for a minimum term of three years, and remain on the list until the Parties form a new contingent list. See USAFTA Article 21.7(4).

The USAFTA provides for each Party to select within a specified time period one panelist in consultation with the other Party and then for both to agree on a chair. The contingent list comes into play only if this process fails. The Parties decided that in such a circumstance, it would be best if the panelist were not a national of either Party. Accordingly, applications are sought only from persons who are not a national of either the United States or Australia.

The text of the USAFTA can be found on the USTR website (www.ustr.gov/trade-agreements/free-trade-agreements).

Criteria for Eligibility for Inclusion on the Contingent List

To qualify for inclusion on the contingent list an applicant must: (1) be objective, reliable, and possess sound judgment; (2) have expertise or experience in law, international trade, or the resolution of disputes arising under international trade agreements; (3) be independent of, and not be affiliated with or take instructions from either Party; and (4) comply with a code of conduct.

Dispute Settlement Mechanism of the USCTPA

The CTPA is a bilateral agreement in force between the United States and Colombia (the “Parties”). The CTPA sets out detailed procedures for the resolution of disputes arising under the Agreement. Dispute settlement involves three stages: (1) lower level consultations between the Parties to try to arrive at a mutually satisfactory resolution of the matter; (2) efforts by the Free Trade Commission, consisting of the cabinet-level representatives of the consulting Parties, to resolve the matter; and, (3) resort to a dispute settlement panel to make a determination regarding the matter at issue between the Parties. The panel is composed of three individuals chosen by the Parties or drawn from the indicative roster.

The USCTPA requires the establishment of an indicative roster from which panelists may be selected by lot if the Parties have otherwise failed to appoint panelists. The indicative roster is to be composed of eight individuals, two of whom are to be individuals who are not a national of

either Party. Once established, the roster remains in effect for a minimum of three years. See CTPA Articles 21.7 and 21.9.

The text of the CTPA can be found through the Office of the U.S. Trade Representative website (www.ustr.gov/trade-agreements/free-trade-agreements).

Criteria for Eligibility for Inclusion on the CTPA Indicative Roster

To qualify for inclusion on the indicative roster an applicant must: (1) have expertise or experience in law, international trade, other matters covered by the Agreement, or the resolution of disputes arising under international trade agreements; (2) be objective, reliable, and possess sound judgment; (3) be independent of, and not be affiliated with or take instructions from either Party; and (4) comply with a code of conduct.

Dispute Settlement Mechanism of the KORUS

The KORUS is a bilateral agreement in force between the United States and Korea. The KORUS sets out detailed procedures for the resolution of disputes arising under the Agreement. Dispute settlement involves three stages: (1) consultations between the Parties to try to arrive at a mutually satisfactory resolution of the matter; (2) efforts by the Joint Committee, comprised of officials from each Party and chaired by officials from USTR and Korea's Ministry of Foreign Affairs and Trade, to resolve the matter; and, (3) resort to a dispute settlement panel to make a determination regarding the matter at issue between the Parties. The panel is composed of three individuals chosen by the Parties.

The KORUS requires the establishment of a contingent list of individuals who are willing and able to serve as panelists. The contingent list shall include at least six nationals of each Party and at least eight individuals who are not nationals of either Party. An individual on the contingent list shall remain on the list for a minimum of three years. See KORUS, Article 22.9.3.

The text of the KORUS can be found on the USTR website (www.ustr.gov/trade-agreements/free-trade-agreements).

Criteria for Eligibility for Inclusion on the Contingent List

To qualify for inclusion on the contingent list an applicant must: (1) be objective, reliable, and possess sound judgment; (2) have expertise or experience in law, international trade, or the resolution of disputes arising under international trade agreements; (3) be independent of, and not be affiliated with or take instructions from either Party; and (4) comply with a code of conduct.

Dispute Settlement under the USMFTA

The USMFTA is a bilateral agreement in force between the United States and Morocco. The USMFTA sets out detailed procedures for the resolution of disputes arising under the Agreement. Dispute settlement involves three stages: (1) consultations between the Parties to try to arrive at a mutually satisfactory resolution of the matter; (2) efforts by the Joint

Committee, comprised of officials from each Party and chaired by officials from USTR and the Ministry of Foreign Affairs and Cooperation of the Kingdom of Morocco, to resolve the matter; and, (3) resort to a dispute settlement panel to make a determination regarding the matter at issue between the Parties. Unless the Parties agree otherwise, the panel is composed of three individuals chosen by the Parties or selected from the reserve list.

The USMFTA requires the establishment of a reserve list from which panelists may be selected. The reserve list is to be composed of eight individuals. Once established, the reserve list remains in effect for a minimum of three years. See USMFTA Article 20.7.

Upon each request for establishment of a panel, potential panelists may be requested to complete a disclosure form, which could be used to identify possible conflicts of interest or appearances thereof. The disclosure form may request information regarding financial interests and affiliations, including information regarding the identity of clients of the potential panelist and, if applicable, clients of the potential panelist's firm.

The text of the USMFTA can be found through the Office of the U.S. Trade Representative website (www.ustr.gov).

Criteria for Eligibility for Inclusion on the Reserve List

To qualify for inclusion on the reserve list an applicant must: (1) have expertise or experience in law, international trade, or the resolution of disputes arising under international trade

agreements; (2) be objective, reliable, and possess sound judgment; (3) be independent of, and not be affiliated with or take instructions from either Party; and (4) comply with a code of conduct.

Dispute Settlement under the USSFTA

The USSFTA is a bilateral agreement in force between the United States and Singapore.

Chapter 20 of the USSFTA sets out detailed procedures for the resolution of disputes arising under the Agreement. Dispute settlement involves three stages: (1) consultations between the Parties to try to arrive at a mutually satisfactory resolution of the matter; (2) efforts by the Joint Committee, composed of officials from each Party and chaired by officials from USTR and Singapore's Ministry for Trade and Industry, to resolve the matter; and, (3) resort to a dispute settlement panel to make a determination regarding the matter at issue between the Parties. The panel is composed of three individuals chosen by the Parties or from the contingent list.

This agreement provides for each Party to select within a specified time period one panelist in consultation with the other Party and then for both to agree on a chair. The contingent list comes into play only if this process fails. The Parties decided that in such a circumstance, it would be best if the panelist were not a national of either party. Accordingly, applications are sought only from persons who are not a national of either the United States or Singapore.

The USSFTA requires the Parties to establish a contingent list of five individuals who are willing and able to serve as panelists. Individuals on the contingent list are appointed by

agreement of the Parties for a minimum term of three years, and remain on the list until the Parties form a new contingent list. See USSFTA Article 20.4(4)(b).

The text of the USSFTA can be found on the USTR website (www.ustr.gov/trade-agreements/free-trade-agreements).

Criteria for Eligibility for Inclusion on the Contingent List

To qualify for inclusion on the contingent list an applicant must: (1) have expertise or experience in law, international trade, or the resolution of disputes arising under international trade agreements; (2) be independent of, and not be affiliated with or take instructions from either Party; and (4) comply with a code of conduct to be established by the Joint Committee.

Procedures for Selection of Members of Lists

An interagency committee chaired by USTR prepares a preliminary list of candidates eligible for inclusion on the various lists. After consultation with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, USTR selects the final list of individuals that the United States will nominate for inclusion on each of the lists. The members of a list under a particular FTA are appointed by agreement of the Parties to that FTA.

Applications

Eligible individuals who wish to be considered for inclusion on one or more of the lists are invited to submit applications.

Persons submitting applications should submit one copy electronically to www.regulations.gov, docket number USTR-2012-0009. If you are unable to submit an application using www.regulations.gov, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

Applications must be typewritten, and should be headed “Application for Inclusion on a List.” Applicants must specify for which of the FTA’s they wish to be considered. Applicants may specify more than one FTA. Applications should include the following information, and each section of the application should be numbered as indicated:

1. Name of the applicant.
2. Business address, telephone number, fax number, and e-mail address.
3. Citizenship(s).
4. Current employment, including title, description of responsibility, and name and address of employer.
5. Relevant education and professional training.
6. Fluency in any relevant language other than English, written and spoken.
7. Post-education employment history, including the dates and addresses of each prior position and a summary of responsibilities.

8. Relevant professional affiliations and certifications, including, if any, current bar memberships in good standing.
9. A list and copies of publications, testimony, and speeches, if any, concerning the relevant area of expertise. Judges or former judges should list relevant judicial decisions. Only one copy of publications, testimony, speeches, and decisions need be submitted.
10. A list of international trade proceedings or domestic proceedings relating to international trade matters or other relevant matters in which the applicant has provided advice to a party or otherwise participated.
11. Summary of any current and past employment by, or consulting or other work for, the Government of the United States and the Government(s) of the other Party(ies) to each agreement for which the applicant is applying (i.e., Australia, Korea, Morocco, or Singapore).
12. The names and nationalities of all foreign principals for whom the applicant is currently or has previously been registered pursuant to the Foreign Agents Registration Act, 22 U.S.C. 611 et seq., and the dates of all registration periods.
13. A short statement of qualifications and availability for service on dispute settlement panels under the relevant agreement, including information relevant to the applicant's familiarity with international trade law and relevant area(s) for the list(s) for which the applicant seeks to be considered, and willingness and ability to make time commitments necessary for service on panels.
14. On a separate page, the names, addresses, telephone and fax numbers of three individuals willing to provide information concerning the applicant's qualifications for service,

including the applicant's character, reputation, reliability, judgment, and familiarity with the relevant area of expertise.

Public Disclosure

Applications normally will not be subject to public disclosure and will not be posted publicly on www.regulations.gov. Applications may be shared with other agencies, the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Government(s) of the other Party(ies) for their consideration in determining whether to appoint persons to the relevant lists.

False Statements

False statements by an applicant regarding his or her personal or professional qualifications, or financial or other relevant interests that bear on the applicant's suitability for placement on a list or appointment to a panel are subject to criminal sanctions under 18 U.S.C. 1001.

Paperwork Reduction Act

This notice contains a collection of information provision subject to the Paperwork Reduction Act ("PRA") that has been approved by the Office of Management and Budget ("OMB").

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB number. This notice's collection of information burden is only for those persons who wish

voluntarily to apply for inclusion on a list. It is expected that the collection of information burden will be less than three hours. This collection of information contains no annual reporting or record keeping burden. This collection of information was approved by OMB under OMB Control Number 0350-0014. Please send comments regarding the collection of information burden or any other aspect of the information collection to USTR at www.regulations.gov.

Privacy Act

The following statements are made in accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a). Provision of the information requested above is voluntary; however, failure to provide the information will preclude consideration as a candidate for inclusion on a list. This information is maintained in a system of records entitled "Dispute Settlement Panelists Roster." Notice regarding this system of records was published in the Federal Register on November 30, 2001. The information provided is needed, and will be used by USTR, other federal government trade policy officials concerned with dispute settlement under the relevant agreement, and officials of the other Party(ies) to select well-qualified individuals for inclusion on the lists and for service on dispute settlement panels.

Daniel E. Brinza
Senior Counsel for Dispute Settlement

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